



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

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|------------------|-------------------------|----------|----------------|
| Date Introduced: | <b>02/17/06</b>         | Bill No: | <b>SB 1341</b> |
| Tax:             | <b>Sales and Use</b>    | Author:  | <b>Cedillo</b> |
| Related Bills:   | <b>AB 2585 (Pavley)</b> |          |                |

### BILL SUMMARY

This bill would repeal the January 1, 2007 sunset date on the existing sales and use tax exemption for sales of used clothing, household items, or other retail items by thrift stores operated for purposes of raising funds to provide medical, hospice, or social services for individuals with HIV or AIDS.

### ANALYSIS

#### Current Law

Under current law, the sales tax or the use tax applies to the sale or use of tangible personal property (including second hand property) in this state, unless specifically exempted or excluded from the tax. Under current law, Section 6363.3 of the Revenue and Taxation Code, as added by AB 3187 (Ch. 781, Stats. 1996, Martinez), provides a sales and use tax exemption for sales of used clothing, household items, and other retail items sold by thrift stores operated by a nonprofit organization. To qualify, the purpose of the thrift store must be to obtain revenue for the funding of medical, hospice, or social services to individuals with HIV disease or AIDS, and at least 75 percent of those revenues must actually be expended for that purpose. AB 180 (Ch. 383, Stats. 2001, Cedillo) amended Section 6363.3 to extend the January 1, 2002 sunset date to January 1, 2007.

Current law also provides an exemption for sales by other charitable organizations. Under Section 6375 of the Revenue and Taxation Code, sales (including thrift store sales) by charitable organizations are exempt from sales and use tax under the following conditions:

1. The organization must be formed and operated for charitable purposes and must qualify for the "welfare exemption" from property taxation provided by Section 214 of the Revenue and Taxation Code.
2. The organization must be engaged in the relief of poverty and distress.
3. The organization's sales or donations must be made principally as a matter of assistance to purchasers or donees in distressed financial condition.
4. The property sold must have been made, prepared, and assembled or manufactured by the organization.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

Merchandise sold through thrift stores operated by Goodwill Industries, the Salvation Army, and St. Vincent de Paul, for example, qualify for the exemption under Section 6375.

### **Proposed Law**

This bill would amend Section 6363.3 of the Revenue and Taxation Code to eliminate the January 1, 2007 sunset date for the exemption for sales of used clothing, household items, or other retail items by thrift stores operated by a nonprofit organization, if the purpose of the thrift store is to obtain revenue for the funding of medical, hospice, or social services to individuals with HIV or AIDS.

The bill would take effect immediately.

### **Background**

AB 1667 (Knox, 2000) would have eliminated the sunset date for this same exemption. The bill failed passage in the Senate Revenue and Taxation Committee.

### **COMMENTS**

1. **Sponsor and purpose.** This bill is sponsored by the California Hospice and Palliative Care Association and is intended to make permanent the existing exemption for sales by thrift stores operated for purposes of funding services to individuals with HIV or AIDS.
2. **Provisions would not be problematic to administer.** Since the Board is already administering the sales and use tax exemption for thrift stores that benefit individuals with HIV or AIDS, eliminating the sunset date would not pose a problem for the Board.
3. **Related Legislation.** The Board, at the January 31, 2006 Board Meeting, voted to sponsor legislation that would have extended the sunset date on the sales and use tax exemption for thrift stores that benefit individuals with HIV or AIDS, from January 1, 2007 to January 1, 2012.

### **COST ESTIMATE**

Some minimal costs to notify affected retailers and revise the Board's applicable publication would be incurred. These costs are expected to be insignificant (i.e., under \$10,000).

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**REVENUE ESTIMATE****Background, Methodology, and Assumptions**

Under current law, sales made by nonprofit organizations that operate thrift stores are exempt from the state and local sales and use tax if those stores are used to fund medical, hospice, or social services for the chronically ill as defined by Section 1568.01 of the Health and Safety Code, which specifies chronic illness as HIV and AIDS. This bill would extend indefinitely that sales and use tax exemption due to sunset on January 1, 2007.

We are aware of one organization that operates thrift stores that would be subject to this bill: the AIDS Healthcare Foundation, which operates Out of the Closet Thrift Stores. Based on information from that organization, the estimated total sales that are subject to this bill amount to \$8.5 million annually.

**Revenue Summary**

Exempting \$8.5 million from the sales and use tax would result in the following annual revenue reduction:

|                       | <u>Revenue Effect</u> |
|-----------------------|-----------------------|
| State loss (5.25%)    | \$ 446,250            |
| Local loss (2.00%)    | \$ 170,000            |
| District loss (0.67%) | <u>\$ 56,950</u>      |
| Total                 | \$ 673,200            |

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|-----------------------|-------------------|----------|----------|
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